

Message Text

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ORIGIN EB-11

INFO OCT-01 EA-11 ISO-00 EUR-25 FMC-04 COME-00 FEA-02

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10

PA-04 RSC-01 PRS-01 SPC-03 SS-20 USIA-15 SAM-01 OMB-01

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P 301506Z JAN 74

FM SECSTATE WASHDC

TO AMEMBASSY MANILA PRIORITY

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E.O. 11652: N/A

TAGS: ENRG, ETRN, RP

SUBJECT: BUNKER FUEL FOR US-FLAG VESSEL: SS ADABELLE LYKES

REF: MANILA 860

1. CASE OF ADABELLE LYKES APPEARS TO BE CLEAR INSTANCE OF APPLICATION OF PHILIPPINE DISCRIMINATORY ALLOCATION REGULATION TO US-FLAG VESSEL. DEPARTMENT CONCURS WITH EMBASSY RECOMMENDATION THAT NOTE BE SENT TO FONOFF IN CONCERT WITH OTHER CONCERNED GOVERNMENTS. AT THE REQUEST OF LYKES, EMBASSY SHOULD REFRAIN FROM NAMING LYKES VESSEL IN DIPLOMATIC NOTE, BUT RATHER MAKE UNMISTAKABLE REFERENCE TO THE INCIDENT INVOLVED. SUGGEST NOTE BE PRESENTED

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ALONG LINES PARAS 2 AND 3 BELOW. EMBASSY MAY USE PARA 4

IF IT WISHES BUT SHOULD IN ANY CASE BE SURE PHILIPPINE
AUTHORITIES UNDERSTAND IT.

2. GOP SHOULD BE MADE AWARE THAT THE OVERWHELMING MAJORITY
OF THE WORLD'S TRADING NATIONS HAVE ADOPTED BUNKER POLI-
CIES WHICH PROMOTE THE CONTINUATION OF WORLD OCEAN-
BORNE TRADE THROUGH THE ALLOCATION OF BUNKER FUELS "ON A
NON-DISCRIMINATORY BASIS IN REGARD TO FLAG OF REGISTRA-
TION." THE US HAS HOPED THAT THIS APPROACH WOULD COME
TO BE GENERALLY ACCEPTED AS THE BEST MEANS FOR MINIMIZING
THE DISRUPTION OF WORLD TRADE DUE TO THE PETROLEUM CRISIS.

WE HAVE HOPED, FURTHER, THAT THE ATTITUDE OF MUTUAL
COOPERATION AND ACCOMMODATION THAT HAS CHARACTERIZED THE
APPROACH OF OUR GOVERNMENTS IN COPING WITH OTHER ASPECTS
OF THE ENERGY PROBLEM COULD BE PRACTICED IN THE MATTER OF
SHIP BUNKERING.

3. UNFORTUNATELY, THE GOP ALLOCATION REGULATIONS FOR SHIP
BUNKERS, BASED ON FLAG OF REGISTRY, APPEAR TO RUN CON-
TRARY TO THESE PRINCIPLES. IT HAS COME TO OUR ATTENTION,
MOREOVER, THAT PHILIPPINE ALLOCATION POLICIES HAVE
ALREADY CAUSED DELAYS AND RE-ROUTING OF US-FLAG VESSELS
THAT WERE UNABLE TO OBTAIN SUFFICIENT FUEL IN THE PHIL-
IPPINES TO PROCEED TO THE NEXT SCHEDULED PORT OF CALL.

4. IN CASES OF DISCRIMINATION, USG REGULATIONS SUB PART I
SECTION 211.163 V) PROVIDE THAT NON-DISCRIMINATORY ALLO-
CATION IS "SUBJECT TO MODIFICATION BY THE FEO FOLLOWING
CONSULTATION WITH APPROPRIATE FEDERAL AGENCIES ON A
CASE-BY-CASE BASIS IF REQUIRED TO ENCOURAGE RECIPROCAL
NON-DISCRIMINATORY ALLOCATION OF BUNKER FUELS..." USG
MAY BE FORCED TO UNDERTAKE SUCH A MODIFICATION IN ITS
TREATMENT OF PHILIPPINE SHIPS IF THE DISCRIMINATORY
TREATMENT NOW BEING ACCORDED US-FLAG SHIPS BY THE PHIL-
IPPINE AUTHORITIES SHOULD CONTINUE. EMBASSY MAY ALSO
POINT OUT THAT UNDER SECTION 19 OF THE MERCHANT MARINE
ACT OF 1920, FEDERAL MARITIME COMMISSION COULD DETERMINE
ACTION OF GOP HAS CREATED "CONDITION UNFAVORABLE TO
SHIPPING IN THE FOREIGN TRADE" AND COULD ACCORDINGLY
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TAKE RETALIATORY ACTION AGAINST PHILIPPINE-FLAG VESSELS
IN AREAS OTHER THAN BUNKER ALLOCATION, SUCH AS RESTRICT-
ING NUMBER OF SAILINGS OR LIMITING OR DENYING ACCESS TO
US PORTS.

5. WOULD HOPE THAT PROBLEM COULD BE RESOLVED WITHOUT
ENTERING INTO PROCESS OF RETALIATION, WHICH WOULD BE
CONTRARY TO INTERESTS OF BOTH SIDES. HOWEVER, USG

ALREADY UNDER CONSIDERABLE PRESSURE FROM SHIPPING COMPANIES TO ACT AND THEREFORE HOPES GOP CAN TAKE REMEDIAL ACTION IN NEAR FUTURE TO REMOVE DISCRIMINATORY ASPECTS OF PRESENT BUNKER ALLOCATION PROGRAM.

6. IN ITS DISCUSSIONS WITH REPS OF OTHER MARITIME NATIONS SUCH AS UK AND JAPAN, EMBASSY SHOULD EMPHASIZE THAT THEIR COOPERATION IN THIS APPROACH WOULD BE ADVANTAGEOUS FOR ALL CONCERNED. SHOULD UK AND/OR JAPAN FAIL TO JOIN US IN OUR APPROACH EMBASSY SHOULD NONETHELESS CONTINUE AS INSTRUCTED. REQUEST EMBASSY CABLE TEXT OF NOTE DELIVERED. KISSINGER

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